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**FILED**  
Superior Court of California  
County of Los Angeles

DEC 31 2018

Sherrill Carter, Executive Officer/Clerk  
By: Carmen Del Rio, Deputy  
CARMEN DEL RIO

Attorneys for Petitioner  
LOS ANGELES POLICE PROTECTIVE LEAGUE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES**

CASE NO. **18STCP03495**

LOS ANGELES POLICE PROTECTIVE  
LEAGUE

Petitioner,

v.

CITY OF LOS ANGELES, a municipal  
corporation; MICHEL R. MOORE, Chief of  
Police, City of Los Angeles, and DOES 1  
through 20, inclusive,

Respondents

**DECLARATION OF CRAIG LALLY AND  
EXHIBITS THERETO IN SUPPORT OF  
APPLICATION FOR ALTERNATIVE  
WRIT OF MANDATE AND REQUEST  
FOR STAY**

**DATE: DECEMBER 31, 2018**

**TIME: 8:30 A.M.**

**DEPT: \_\_\_\_\_ (WRITS AND RECEIVERS)**

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1 City/Police Department rules and regulations, and collective bargaining agreements. The  
2 existence of such confidentiality of peace officer personnel records is often a factor in the  
3 decision by officers to forgo their right to appeal accusations of alleged misconduct or severity  
4 of discipline, and instead, reach a prompt resolution with the LAPD in the furtherance of  
5 positive labor relations and in preservation of resources; despite an officer's underlying  
6 disagreement with the propriety of such disciplinary action. However, if peace officers  
7 understood that they did not or would not maintain privacy in their personnel records, they  
8 likely would have made different decisions with respect to their ability to appeal accusations of  
alleged misconduct.

9 5. Pursuant to a letter dated December 3, 2018 from Police Chief Michel Moore, the  
10 LAPD has been preparing for a retroactive application of SB 1421's amendments; meaning that  
11 the LAPD and the City will respond to CPRA requests for records reflecting specified conduct  
12 prior to SB 1421's effective date by disclosing such records. Attached hereto as **Exhibit A** is a  
13 true and correct copy of Chief Moore's December 3, 2018 letter.

14 6. Pursuant to a letter dated December 26, 2018 to me, from Arif Alikhan, Director of  
15 Constitutional Policing and Policy for the Los Angeles Police Department, it was confirmed  
16 that the Los Angeles Police Department intends to retroactively apply SB 1421 beginning  
17 January 1, 2019 absent a stay or other ruling from the California Supreme Court or another  
18 court of competent jurisdiction. Attached hereto as **Exhibit B** is a true and correct copy of the  
December 26, 2018 letter.

19 7. Unless and until a Stay Order is issued by the Court in this case, Petitioner's  
20 represented peace officers will suffer irreparable injury and damage by the retroactive

1 application of Senate Bill 1421, in that such an application would unlawfully violate the  
2 constitutional and statutory protection of peace officers to the confidentiality of their peace  
3 officer personnel records regarding incidents or reflecting conduct occurring prior to January 1,  
4 2019; a right on which many LAPPL-represented peace officers relied in making decisions to  
5 appeal or not to appeal accusations of alleged misconduct.

6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct to the best of my knowledge and was executed on December 26  
8 2018 at Los Angeles, California.

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Craig Lally

# LOS ANGELES POLICE DEPARTMENT



**MICHEL R. MOORE**  
Chief of Police

**ERIC GARCETTI**  
Mayor

P. O. Box 30158  
Los Angeles, CA 90030  
Telephone: (213) 486-0150  
TDD: (877) 275-5273  
Ref #: 1.14

December 3, 2018

The Honorable Nancy Skinner  
California State Senate  
State Capitol, Room 2059  
Sacramento, CA 95814

Dear Senator Skinner:

The Los Angeles Police Department (LAPD) is writing this letter to express our concern that Senate Bill 1421 (SB 1421) may be interpreted as retroactive. Since the passage of SB 1421, the LAPD has been preparing for the massive influx in historical records requests it anticipates starting January 1, 2019. We recognize that the passage of SB 1421 will require our Department to significantly grow its workforce and modernize its technology in order to comply with releasing records that were previously exempt. As such, the Department has convened an SB 1421 Taskforce, meeting weekly with all stakeholders to address future compliance with SB 1421 in an effective and efficient manner. Through this introspective process, we have identified some key ways to streamline current and future investigations that will allow us to more readily comply with the requirements of SB 1421. The mandates of SB 1421, even on a prospective basis, will require the hiring of additional personnel; acquisition of expensive hardware and software related to uploading, redacting, digitizing, and reformatting files and evidence; and, reallocation of personnel from key field, investigative, and administrative positions. If SB 1421 is implemented retroactively, the workload on the men and women of the LAPD could prove to be well beyond any reasonable expectation given the sheer volume of personnel complaints and uses of force (UOF) maintained in antiquated or archaic formats.

The LAPD has two distinct entities that investigate incidents directly related to SB 1421: Force Investigation Group (FIG), which investigates all serious UOF incidents; and, Internal Affairs Group (IAG), which investigates allegations of misconduct. Currently, the LAPD retains complaint records and officer-involved shooting investigations indefinitely.

## Use of Force Investigations

In just the last five years, FIG investigated a total of 419 UOF incidents. While not all these incidents would require disclosure under SB 1421, each investigation would have to be reviewed to determine disclosure requirements. A typical investigation requiring disclosure under SB 1421 includes thousands of pages of written investigations and transcripts, hours of audio and video evidence from Body Worn Video and Digital In-Car Video, plus 911 dispatcher audio, and hundreds of photographs. The SB 1421 Taskforce recently audited one representative UOF

investigation requiring disclosure under SB 1421. The items to be disclosed are listed below:

Total Pages of Investigation:	2,232
Total Hours of Video:	11:00:32
Total Hours of Audio:	18:16:04
Total Radio Frequency/911 Call Time:	3:16:30
Total Data Size:	32.14 GB
Total Photos:	813

It is estimated that this case would require 267 work hours to complete a full review for release under SB 1421. Even if the historical record requirement were limited to just the last five years, there is a potential of nearly 300,000 work hours necessary to complete the required tasks under SB 1421. Beyond those five years, the LAPD has approximately 1,013 boxes in storage dating back to 1983. Because these older cases are stored on cassette tapes, reel to reel tape, and floppy discs, reviewing, reproducing, and redacting these records will prove extremely burdensome. The LAPD currently has no technology to convert many of these investigations to a workable, disclosable format. From the older cases, paperwork and developed photographs will need conversion to a digital format, review by a trained investigator, and redaction as required by law. Currently, the older cases are not divided into the categories required under SB 1421; as such, Department personnel will be required to complete a hand review of every case. This historical research would all have to be completed in conjunction with new cases being investigated and reviewed for release under SB 1421.

### **Complaint Investigations**

Internal Affairs Group averages over 3,300 disciplinary investigations each year. The breakdown over the previous five years is as follows:

Year	Initiated	Sustained Complaints*	Sustained Allegations
2017	3,189	372	629
2016	3,393	404	664
2015	3,446	450	1,038
2014	3,773	363	725
2013	3,543	365	664
Total 5 Years	17,344	1,954	3,720

If SB 1421 is to be implemented retroactively, these cases will require review in much the same manner as the UOF cases. While most cases after 2003 have been scanned, many are not in a searchable format; therefore, each would still require conversion to a word search format, or an entire manual review. Each sustained complaint must be individually reviewed, redacted, and uploaded into a releasable format.

\* There could be several sustained allegations in a single complaint.

The review and redaction process would include a search of the following records:

- Audio and video recordings;
- Penalty Recommendation forms;
- Relief from Duty forms;
- Suspension or Demotion forms;
- Board of Rights or other hearing documents; and,
- Legal/Court of Appeals documents.

Simply stated, the physical and rudimentary manner in which the LAPD catalogs its completed investigations will require a manual review of each case for investigations completed after 2003. Those dated prior to that time were placed in individual employee personnel packages and would require the requester to identify the involved officer in order for the Department to have to a realistic ability to determine whether the investigation existed and is subject to disclosure.

The LAPD operates with a guiding principle of Reverence for the Law; as such, we will diligently comply with SB 1421. We maintain, however, that a retroactive implementation of SB 1421 will be exceptionally burdensome and would require significant reallocation of front-line investigative personnel.

Should you have any questions concerning this matter, please contact Commander Jeff Bert, Risk Management Legal Affairs Group, at (213) 486-8720.

Respectfully,



MICHEL R. MOORE  
Chief of Police

# LOS ANGELES POLICE DEPARTMENT

**MICHEL R. MOORE**  
Chief of Police



**ERIC GARCETTI**  
Mayor

P. O. Box 30158

Telephone: (213) 486-8730  
TDD: (877) 275-5273  
Ref #:2.2.3

December 26, 2018

Craig Lally, President  
Los Angeles Police Protective League  
1308 West Eighth Street, 4<sup>th</sup> Floor  
Los Angeles, California 90017

## **Re: Senate Bill 1421 - Peace Officers: Release of Records**

Dear President Lally:

This letter is to advise you that the Los Angeles Police Department (Department) intends to apply the newly-enacted provisions of California Senate Bill 1421 (SB 1421) retroactively beginning January 1, 2019, absent a stay or other ruling from the California Supreme Court or another court of competent jurisdiction.

Senate Bill 1421 amended Penal Code section 832.7 by eliminating the statutory confidentiality of specified peace officer personnel records and information contained in those records. It created a new mandate that the following records maintained by public agencies shall be subject to disclosure and otherwise available for public inspection pursuant to the California Public Records Act ("CPRA"), Government Code section 6250 et seq.:

- Records related to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which a use of force by a peace officer or custodial officer resulted in death or great bodily injury;
- Records relating to an incident in which a sustained finding was made that a peace officer or custodial officer engaged in sexual assault involving a member of the public; and
- Records relating to an incident in which a sustained finding was made of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of, misconduct by another peace officer or custodial officer.

The new provisions become effective on January 1, 2019.



As you know, the San Bernardino County Employees' Benefit Association has filed with the California Supreme Court a petition for a writ of mandamus requesting that the Court direct the County of San Bernardino to refrain from retroactively enforcing, or taking any steps to retroactively enforce, SB 1421. The Court has not yet ruled on the petition.

The Department has expressed its concern to Senator Skinner that retroactive implementation of SB 1421 will prove exceptionally burdensome. The Department maintains use of force investigative files and personnel records going back decades and the retroactive application of SB 1421 will require the LAPD to hire additional personnel, acquire costly computer equipment and software, transfer funding for training and technical assistance, and reassign front-line personnel to perform the administrative tasks necessary for compliance. Nevertheless, the Department is bound by the California Public Records Act and given any uncertainty or lack of clarity over the application of SB 1421, unless the California Supreme Court or a lower court rules that its provisions do not apply to incidents occurring or records created prior to January 1, 2019, the Department will provide the responsive records regardless of the date of creation or incident.

Should you have any questions, please contact us at (213) 486-8730.

Very truly yours,

MICHEL R. MOORE  
Chief of Police



ARIF ALKHAN, Director  
Office of Constitutional Policing and Policy